

Amendment No. 4 to HB2013

Faison  
Signature of Sponsor

**AMEND Senate Bill No. 2383**

**House Bill No. 2013\***

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 63-7-127, is amended by deleting the section in its entirety and substituting instead the following:

(a) As used in this section, "medication aide" means an individual who administers medications under the general supervision of a licensed registered or practical nurse pursuant to this section. During the course of administering medication, a medication aide shall not be assigned any other nonmedication administration duties. A medication aide shall not be prohibited from responding, as appropriate, to an emergency.

(b) Any nursing home or assisted care living facility licensed pursuant to title 68 or a Program for All-Inclusive Care for the Elderly (PACE) as defined in § 56-2-121(b) may use one (1) or more medication aides to administer medications, as set forth in this section, to its patients; provided, that each and every individual used as a medication aide shall hold a current, valid medication aide certificate issued by the board of nursing under this section.

(c) When carrying out their responsibilities under this section, medication aides shall wear a name tag visible to others that displays the designation "Medication Aide".

(d) An individual seeking certification as a medication aide shall apply to the board of nursing on a form prescribed and provided by the board in writing or via online application. The individual shall also pay the applicable certification fee established by the board.

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(e) To be eligible to receive a medication aide certificate, an applicant shall:

(1) Be at least eighteen (18) years of age;

(2) Have completed the twelfth grade or its equivalent, or have successfully passed the test for and received a general equivalency diploma;

(3) Be a nurse aide, duly certified under the standards established under federal law and title 68, chapter 11, part 2, who has practiced as a certified nurse aide in a nursing home or assisted care living facility or a Program for All-Inclusive Care for the Elderly (PACE) as defined in § 56-2-121(b) for a minimum of one (1) year at the time the applicant submits an application for certification as a medication aide;

(4) Have successfully completed the course of instruction provided by a training program approved by the board under subsection (i); and

(5) Have passed a standardized examination.

(f) If an applicant meets the requirements of subsection (e), the board shall issue a medication aide certificate to the applicant.

(g) A medication aide certificate is valid for two (2) years, unless it is earlier suspended or revoked. The certificate may be renewed in accordance with procedures specified in rules promulgated by the board under this section. To be eligible for renewal, an applicant shall pay a renewal fee established by the board and shall:

(1) Have completed all continuing education or continued competency requirements, or both, necessary to maintain nurse aide certification under title

68, chapter 11, part 2, and the rules promulgated pursuant to title 68, chapter 11, part 2; and

(2) Have completed a total of six (6) contact hours per year of continuing education; provided, that five (5) hours of the continuing education shall be in pharmacology provided by a licensed pharmacist or registered nurse.

(h)

(1) The board has the power to deny, revoke, or suspend any certificate to practice as a medication aide or to otherwise discipline a certificate holder, including imposing civil monetary penalties, upon proof that the medication aide:

(A) Is guilty of fraud or deceit in procuring or attempting to procure a certificate as a medication aide;

(B) Is guilty of a crime;

(C) Is addicted to alcohol or drugs to the degree of interfering with the medication aide's professional duties;

(D) Is mentally incompetent;

(E) Is unfit or incompetent by reason of negligence, habits, or other cause, including the following:

(i) Intentionally or negligently causing physical or emotional injury to a patient;

(ii) Failing to assist in maintaining a facility record for each patient that accurately reflects the medication administration by the medication aide or failure to maintain a record for each patient that accurately reflects the name and title of the aide providing care, or both;

(iii) Using or removing without authorization drugs, supplies, or equipment from any licensed nursing home, assisted

care living facility, or Program for All-Inclusive Care for the Elderly (PACE) as defined in § 56-2-121(b);

(iv) Using any intoxicating beverage or illegally using any narcotic or dangerous drug while on duty in any licensed nursing home, assisted care living facility, or Program for All-Inclusive Care for the Elderly (PACE) as defined in § 56-2-121(b);

(v) Being under the influence of alcoholic beverages, or under the influence of drugs that impair judgment while on duty in any licensed nursing home, assisted care living facility, or Program for All-Inclusive Care for the Elderly (PACE) as defined in § 56-2-121(b);

(vi) Impersonating another licensed or certified healthcare provider;

(vii) Having received a revocation, suspension, probation, or other discipline of a certificate to practice as a medication aide, or its equivalent, or as a certified nurse aide, by another state for any act or omission that would constitute grounds for the revocation, suspension, probation, or other discipline of a certificate in this state;

(viii) Practicing as a medication aide certified in this state on a lapsed certificate;

(ix) Aiding, abetting, or assisting an individual to violate or circumvent any law or duly promulgated rule intended to guide the conduct of any certified or licensed healthcare provider;

(x) Exercising undue influence on a patient, including the promotion or sale of services, goods, appliances, or drugs in such

a manner as to exploit the patient for financial gain of the medication aide or of a third party;

(xi) Discriminating in the rendering of services as it relates to race, age, sex, religion, national origin, or the condition of the patient;

(xii) Violating confidentiality of information or knowledge concerning the patient, except when required to do so by a court of law;

(xiii) Failing to take appropriate action in safeguarding the patient from incompetent healthcare practices;

(xiv) Failing to report, through proper channels, facts known to the individual regarding incompetent, unethical, or illegal practices of any healthcare provider;

(xv) Performing healthcare techniques or procedures without proper education and practice; or

(xvi) Engaging in acts of dishonesty that relate to the practice of a medication aide;

(F) Is convicted of any one (1) of the following crimes:

(i) First degree murder, § 39-13-202;

(ii) Second degree murder, § 39-13-210;

(iii) Kidnapping, § 39-13-303;

(iv) Aggravated kidnapping, § 39-13-304;

(v) Especially aggravated kidnapping, § 39-13-305;

(vi) Aggravated robbery, § 39-13-402;

(vii) Especially aggravated robbery, § 39-13-403;

(viii) Aggravated rape, § 39-13-502;

(ix) Rape, § 39-13-503;

(x) Exploitation of an adult under § 39-14-111; or

(xi) Abuse, neglect, or exploitation of an adult under § 71-6-117;

(G) Furnished or otherwise provided the board with false or incomplete information on an application for a certificate regarding the individual's criminal conviction record; or

(H) Has violated or attempted to violate, or assisted in or abetted the violation of, or conspired to violate, this chapter, any duly promulgated rule, or any lawful order of the board issued pursuant to this chapter.

(2) All disciplinary actions taken by the board under this section shall conform to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3, and may be heard by a screening panel pursuant to § 63-7-115(c).

(i)

(1) A qualified entity seeking approval to provide a medication aide training program shall apply to the board of nursing on a form prescribed and provided by the board, along with the applicable fee established by the board.

(2) The board shall approve the applicant described in subdivision (i)(1) if the applicant is a qualified entity, or a combination of qualified entities, and if the content of the course of instruction to be provided by the program meets the standards, specified by the board in rules promulgated under this section, and includes:

(A) At least sixty (60) hours of instruction, consisting of forty (40) classroom hours and twenty (20) clinical hours. The standard minimum curriculum shall be determined by the board of nursing and shall include

appropriate instruction to enable communication, attention to safety, knowledge of medications, and other factors as determined necessary by the board; and

(B) A supervised clinical practice component that includes an approved medication aide training program sufficient to assure that students are prepared to administer medications as a medication aide in a safe and effective manner and that:

(i) Consists of twenty (20) hours, including experience in tasks related to the administration of medication, and that is conducted under the direction and supervision of a licensed nurse;

(ii) Requires any licensed nursing home, assisted care living facility, or Program for All-Inclusive Care for the Elderly (PACE) as defined in § 56-2-121(b) participating in the training program to have a written agreement to provide licensed nurse supervision of the student; and

(iii) Requires supervision of a student engaged in medication administration by a licensed nurse.

(3) The board may deny, suspend, or revoke the approval granted to the qualified entity of a medication aide training program for reasons specified in rules promulgated under this subsection (i). All actions taken by the board to deny, suspend, or revoke the approval of a training program shall conform to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(j)

(1) The board shall provide or contract for the provision of standardized medication aide examination services by:

(A) Publishing an annual schedule of examination schedules and sites;

(B) Scheduling tests to be administered, except when no individual is scheduled to test at a particular test site;

(C) Publishing the number of individuals passing and failing the exam on at least a quarterly basis;

(D) Requiring the minimum passing grade to be eighty-five percent (85%) for the examination; and

(E) Requiring individuals who fail any portion of the examination two (2) consecutive times to repeat the course of training as set forth in subsection (i) prior to taking the examination again.

(2) In accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, the board shall have rulemaking authority to establish any necessary rules for the administration of this subsection (j).

(k)

(1)

(A) Except for the prohibited medications and the methods of medication administration specified in subdivision (k)(3), a medication aide, who holds a current, valid medication aide certificate issued under this section, may administer medications to the residents of nursing homes or assisted care living facilities or to the participants of Programs for All-Inclusive Care for the Elderly (PACE) as defined in § 56-2-121(b) that use medication aides pursuant to this section. A medication aide shall administer medications only pursuant to delegation by a licensed nurse.

(B) A delegation of medication administration to a medication aide shall be carried out in accordance with the rules for nursing delegation adopted under this chapter by the board of nursing.

(C) A medication aide may only administer medication after:

(i) Each resident is evaluated by a licensed nurse on admission and after any change in status, acuity, or medication; and

(ii) The licensed nurse makes a determination that it is appropriate for the resident to receive medication by a medication aide.

(2) In exercising the authority to administer medications pursuant to a nursing delegation, a medication aide may administer medications in any of the following categories:

(A) Oral medications;

(B) Topical medications; and

(C) Any medications set forth in subdivision (k)(2)(A) or (k)(2)(B) prescribed with a designation authorizing or requiring administration on an as-needed basis, but only if a nursing assessment of the patient is completed by a nurse licensed under this title before the medication is administered.

(3) A medication aide shall not:

(A) Administer medications when administration would require a dosage decision or calculation;

(B) Directly receive orders from a physician or other medication prescriber;

(C) Administer barium or other contrast media;

- (D) Administer chemotherapeutic agents;
- (E) Administer rectal and vaginal medications;
- (F) Apply topical medications ordered for the treatment of pressure ulcers or skin grafts;
- (G) Change a dosage amount to adhere to a change in a physician's order;
- (H) Administer medications delivered by aerosol / nebulizers; or
- (I) Administer medications delivered by metered hand-held inhalers without a spacer.

(4) A medication aide shall not, under any circumstances, administer medications by certain methods or routes, or both, as determined by rule. These methods or routes include, but are not limited to, the following:

- (A) Injection;
- (B) Intravenous;
- (C) Central lines;
- (D) Intrathecal;
- (E) Colostomy;
- (F) A surgically placed feeding tube, such as gastrostomy or jejunostomy;
- (G) Nasogastric;
- (H) Intradermal;
- (I) Urethral;
- (J) Epidural;
- (K) Endotracheal;
- (L) Intramuscular;
- (M) Subcutaneous; or

(N) Non-metered inhaler.

(I)

(1) The board of nursing shall adopt rules to implement this section.

These rules shall take effect no later than January 1, 2017. All rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(2) The rules adopted to implement this section shall at a minimum establish or specify the following:

(A) Fees, in an amount sufficient to cover the costs the board incurs in implementing this section;

(B) Procedures for renewal of medication aide certificates;

(C) Grounds for discipline of applicants or certificate holders, or both;

(D) Standards for approval of peer support programs for the holders of medication aide certificates; and

(E) Procedures for approval or denial of medication aide training programs.

(m) A licensed nurse for the purpose of this section shall include a registered nurse, a licensed practical nurse, or either one.

(n)

(1) Any nursing home or assisted care living facility licensed pursuant to title 68 or a Program for All-Inclusive Care for the Elderly (PACE) as defined in § 56-2-121(b) that uses one (1) or more medication aides to administer medications shall implement as part of its facility policy a plan for the tracking and recording of:

(A) Any medication error; and

(B) Any incident of opioid or benzodiazepine diversion.

(2) The incidents of medication error and diversion of opioids and benzodiazepines shall be made available to duly appointed representatives of the department of health pursuant to § 68-11-210.

SECTION 2. For rulemaking purposes, this act shall take effect on becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2017, the public welfare requiring it.